



City of San Antonio, Texas

Ethics Advisory Opinion No. 2021-04

October 25, 2021

Issued By: City Attorney's Office

I. Issue

May an employee serve on the Board of Directors for a San Antonio chapter of a statewide non-profit?

II. Inquiry

An employee has been nominated to serve on the Board of Directors of the local chapter of a statewide non-profit. The employee has inquired if this service is allowed and if there are any restrictions to this service under the City's Ethics Code.

III. The Ethics Code

Under the Ethics Code of the City of San Antonio, all City employees are required to follow the standards of conduct as set forth in the Code. The sections of the Code most applicable to this inquiry are as follows:

Sec. 2-43. Conflict of Interest.

As a general rule, a City employee may not take official action that they know is likely to have an effect on their own economic interest or on the economic interest of a business or non-profit entity for which they serve as an officer. For the purpose of this rule, an action is likely to affect an economic interest if it is distinguishable from its effect on members of the public in general.

If the employee were to encounter a situation where their official action would benefit the non-profit entity, they would be required to recuse themselves immediately, refrain from any further participation in the matter, and disclose in writing to the City Clerk the potential conflict. In addition, the employee must notify their supervisor of the conflict so that if necessary, they may reassign the responsibility to another employee.

Sec. 2-44. Unfair Advancement of Private Interests.

The Ethics Code prohibits all City officials and employees from using their position "to unfairly advance or impede private interests, or to grant or secure, or attempt to grant or secure,

for any person (including themselves) any form of special consideration, treatment, exemption, or advantage beyond that which is lawfully available to other persons."

Under this section, an official must not use their position to unfairly advance the private interests of a person or entity, including a non-profit, or give the impression of such.

Sec. 2-46. Confidential Information.

The Ethics Code prohibits City employees from using their position to obtain confidential information for purposes other than the performance of their duties. Furthermore, the employee may not intentionally or knowingly disclose confidential information gained as a result of their position.

Sec. 2-47. Representation of Private Interests.

The Ethics Code prohibits City employees from representing for compensation any person, group, or entity, other than themselves, or their spouse or minor children, before the City. Compensation would include money or any other thing of value that is received, or is to be received, in return for or in connection with such representation.

Sec. 2-49. Public property and resources.

The Ethics Code prohibits City employees from using City facilities, personnel, equipment, or supplies or time while on City duty for private purposes, except:

- (1) Pursuant to duly adopted City policies, or
- (2) To the extent and according to the terms that those resources are lawfully available to the public.

IV. Conclusion:

City employees may serve on an outside non-profit board as long as they abide by the pertinent sections of the Ethics Code. As such, the employee should exercise caution during their service with the board, especially if there were to be any interaction between the entity and the City. This includes any situations in which the employee's official action could benefit the non-profit entity.